

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. 14-cr-00012-PAB

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. SCOTT T. BLACK, and
2. OSCAR S. GARCIA,

Defendants.

INDICTMENT

Possession of a Controlled Substance With Intent to Distribute

Title 21 U.S.C. § 841(a)(1) and (b)(1)(C)
Title 18 U.S.C. § 2

Use of Communications Facility to Facilitate Drug Trafficking Felony

Title 21 U.S.C. § 843(b)
Title 18 U.S.C. § 2

Intentionally Gaining Unauthorized Access to a Computer Data Base

Title 18 U.S.C. § 1030(a)(2)(B) (a) and (C), (b), and (c)(2)(B)(ii)
Title 18 U.S.C. § 2

Knowingly and Willfully Making a Materially False Representation

Title 18 U.S.C. § 1001(a)(2)

Conspiracy to Possess a Controlled Substance With Intent to Distribute

Title 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(B)(ii)(II)
Title 18 U.S.C. § 2

Conspiracy to Gain Unauthorized Access to a Computer Data Base

Title 18 U.S.C. §§ 371 and 1030(a)(2)(B) and (C), (b), and (c)(2)(B)(ii)
Title 18 U.S.C. § 2

The Grand Jury Charges:

COUNT ONE
Possession with Intent to Distribute Cocaine
21 U.S.C. § 841(a)(1) and (b)(1)(C)
18 U.S.C. § 2

On or about May 26, 2011, within the District of Colorado, the defendant, OSCAR S. GARCIA, knowingly possessed with intent to distribute a quantity of a substance and mixture containing a detectable amount of cocaine, a Schedule II controlled substance and intentionally aided and abetted another to do so.

All in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C) and Title 18, United states Code, Section 2.

COUNT TWO
Possession with Intent to Distribute Cocaine
21 U.S.C. § 841(a)(1) and (b)(1)(C)
18 U.S.C. § 2

On or about July 22, 2011, within the District of Colorado, the defendant, OSCAR S. GARCIA, knowingly possessed with intent to distribute a quantity of a substance and mixture containing a detectable amount of cocaine, a Schedule II controlled substance and intentionally aided and abetted another to do so.

All in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C), and Title 18, United States Code, Section 2.

COUNT THREE
Possession with Intent to Distribute Cocaine
21 U.S.C. § 841(a)(1) and (b)(1)(C)
18 U.S.C. § 2

On or about September 22, 2011, within the District of Colorado, the defendant, OSCAR S. GARCIA, knowingly possessed with intent to distribute a quantity of a substance and mixture containing a detectable amount of cocaine, a Schedule II

controlled substance and intentionally aided and abetted another to do so.

All in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(B),
And Title 18, United States Code, Section 2.

COUNT FOUR
Use of Communications Facility to Facilitate Drug Trafficking Felony
21 U.S.C. § 843(b)
18 U.S.C. § 2

On or about September 23, 2011, at approximately 22:41 hours, within the District of Colorado and elsewhere, the defendants, SCOTT T. BLACK and OSCAR S. GARCIA, knowingly and intentionally aided, abetted each other and caused a dispatcher of the Glendale Police Department, at Glendale, Colorado, to use a communication facility to transmit a request to the CCIC and NCIC criminal justice records information systems of the CBI and FBI inquiring about the existence of records for Colorado vehicle license plate **199MDH**, for the purpose of facilitating the commission of an act and acts constituting one and more Title 21 felonies, to wit: Possession with Intent to Distribute a Controlled Substance and Conspiracy to Possess with Intent Distribute a Controlled Substance, in violation of Title 21, United States Code, Sections 841 and 846.

All in violation of Title 21, United States Code, Section 843(b), Unlawful Use of Communications Facility, and Title 18, United States Code, Section 2.

COUNT FIVE
Intentionally Gaining Unauthorized Access to a Computer
18 U.S.C. § 1030(a)(2)(B) and (C)
18 U.S.C. § 2

On or about September 23, 2011, at approximately 22:41 hours, within the District of Colorado and elsewhere, the defendants, SCOTT T. BLACK and OSCAR S. GARCIA, intentionally aided and abetted each other to exceed authorized access to the CCIC and

NCIC criminal justice records information systems computers of the CBI and FBI, by causing a dispatcher of the Glendale Police Department, at Glendale, Colorado, to inquire and thereby obtain information from a protected computer and from a department and agency of the United States pertaining to the existence of records for Colorado vehicle license plate **199MDH**, for the purpose of furthering one and more criminal acts in violation of the laws of the United States and the State of Colorado.

All in violation of Title 18, United States Code, Section 1030(a)(2)(B) and (C) and (c)(2)(B)(ii), Unauthorized Computer Access, and Title 18, United States Code, Section 2.

COUNT SIX
Intentionally Gaining Unauthorized Access to a Computer
18 U.S.C. § 1030(a)(2)(B) and (C), (b), and (c)(2)(B)(ii)
18 U.S.C. § 2

On or about September 28, 2011, at approximately 20:56 hours, within the District of Colorado and elsewhere, the defendant, SCOTT T. BLACK, intentionally attempted to exceed and intentionally exceeded authorized access to the CCIC and NCIC criminal justice records information systems computers of the CBI and FBI by causing a dispatcher of the Glendale Police Department, at Glendale, Colorado, to inquire and thereby obtain information from a protected computer and from a department and agency of the United States pertaining to the existence of records for Colorado vehicle license plate **179XBX**, for the purpose of furthering one and more criminal acts in violation of the laws of the United States and the State of Colorado.

All in violation of Title 18, United States Code, Section 1030(a)(2)(B) and (C), (b), and (c)(2)(B)(ii), Unauthorized Computer Access, and Title 18, United States Code, Section 2.

COUNT SEVEN
Knowingly and Willfully Making a Materially False Representation
18 U.S.C. § 1001(a)(2)

On or about August 13, 2013, within the District of Colorado, the defendant, SCOTT T. BLACK, knowingly and willfully made a materially false statement and representation to an FBI special agent in a matter within the jurisdiction of the executive branch and the judicial branch of the Government of the United States.

All in violation of Title 18, United States Code, Section 1001(a)(2), Knowingly and Willfully Making a Materially False Statement.

COUNT EIGHT
Knowingly and Willfully Making a Materially False Representation
18 U.S.C. § 1001(a)(2)

On or about November 20, 2013, within the District of Colorado, the defendant, SCOTT T. BLACK, knowingly and willfully made a materially false statement and representation to an FBI special agent in a matter within the jurisdiction of the executive branch and the judicial branch of the Government of the United States.

All in violation of Title 18, United States Code, Section 1001(a)(2), Knowingly and Willfully Making a Materially False Statement.

COUNT NINE
Conspiracy to Possess with Intent to Distribute Cocaine
21 U.S.C. § 846
21 U.S.C. § 841(a)(1) and (b)(1)(B)(ii)(II)
18 U.S.C. § 2

Between on or about March 1, 2011, and or about December 12, 2013, within the District of Colorado, the defendant, OSCAR S. GARCIA, and other persons to the Grand Jury known and unknown, knowingly agreed that one and more of them would knowingly possess with intent to distribute more than five hundred grams of a mixture and substance

containing a detectable amount of cocaine, a Schedule II Controlled Substance, in violation of Title 21, United States Code, Section 841(a)(1) and (b)(1)(B)(ii)(II), and intentionally aided and abetted the same.

All in violation of Title 21, United States Code, Section 846, Conspiracy, Title 18, United States Code, Section 2, and *Pinkerton v. United States*, 328 U.S. 640 (1946)(*Pinkerton* liability for the reasonably foreseeable conduct of co-conspirators).

COUNT TEN
Conspiracy to Gain Unauthorized Access to a Computer Data Base
18 U.S.C. §§ 371 and 1030(a)(2)(B) and (C), (b), and (c)(2)(B)(ii)
18 U.S.C. § 2

Between on or about September 8, 2011, and December 12, 2013, within the District of Colorado, the defendants, SCOTT T. BLACK and OSCAR S. GARCIA, and other persons to the Grand Jury known and unknown, knowingly agreed that one and more of them would intentionally exceed authorized access to the CCIC and NCIC criminal justice records information systems computers of the CBI and FBI and thereby obtain information from a protected computer and from a department and agency of the United States, in furtherance of a criminal act in violation of the laws of the United States and the State of Colorado. Actions in furtherance of this agreement included: (1) 9/8/11 - Officer Scott T. Black Car/22 ran license plate **094VZN** at 0101 on GL01 mobile; (2) 9/23/11 - Officer Scott T. Black Car/22 requested dispatch to run license plate **199MDH** at 2241; (3) 9/28/11 – GPD Dispatcher queried license plate **179XBX** on dispatch GLE at 2056; (4) 11/15/11 - Officer Scott T. Black Car/22 ran license plate **094VZN** at 2048 on GL01 mobile; (5) 8/2/12 -- Officer Scott T. Black ran his own license plate **456ROM** and dl information on Nam/Garcia, Oscar dob/ XXXX78 at 0316 on GL01 mobile.

All in violation of Title 18, United States Code, Sections 371 and 1030(a)(2)(B) and (C), (b), and (c)(2)(B)(ii), Conspiracy; Title 18, United States Code, Section 2; and *Pinkerton v. United States*, 328 U.S. 640 (1946)(*Pinkerton* liability for the reasonably foreseeable conduct of co-conspirators).

A TRUE BILL:

Ink signature on file in Clerk's Office
FOREPERSON

JOHN F. WALSH
United States Attorney

By: s/David M. Conner
DAVID M. CONNER
Assistant United States Attorney
United States Attorney's Office
1225 17th Street, Suite 700
Denver, Colorado 80202
Telephone: (303) 454-0100
Fax: (303) 454-0403
Email: David.Conner@usdoj.gov

By: s/Guy Till
GUY TILL
Assistant United States Attorney
United States Attorney's Office
1225 17th Street, Suite 700
Denver, Colorado 80202
Telephone: (303) 454-0100
Fax: (303) 454-0409
Email: Guy.Till@usdoj.gov

DEFENDANT 1: SCOTT T. BLACK

YEAR OF BIRTH: 1974

ADDRESS:

COMPLAINT FILED? _____ YES X _____ NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: _____
IF NO, PROCEED TO "OFFENSE" SECTION

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? ___ YES X NO

IF NO, A NEW WARRANT IS REQUIRED

OFFENSE:

Count Four: Use of Communications Facility to Facilitate Drug Trafficking Felony, and aiding and abetting the same – 21 U.S.C. § 843(b) and 18 U.S.C. §2

Count Five: Intentionally Gaining Unauthorized Access to a Computer, and aiding and abetting the same - 18 U.S.C. § 1030(a)(2)(B) and (C) and 18 U.S.C. §2

Count Six: Intentionally Gaining Unauthorized Access to a Computer, and aiding and abetting the same – 18 U.S.C. § 1030(a)(2)(B) and (C) and 18 U.S.C. §2

Counts Seven & Eight: Knowing and Willfully Making a Materially False Representation - 18 U.S.C. § 1001(a)(2)

Count Ten: Conspiracy to Gain Unauthorized Access to a Computer Data Base 18 U.S.C. §§ 371 and 1030(a)(2)(B) and (C), (b), and (c)(2)(B)(ii)

LOCATION OF OFFENSE (COUNTY/STATE): Arapaho County, Glendale, Colorado

PENALTY:

Count Four: NMT 4 years imprisonment, a fine of NMT \$250,000.00, or both; NMT 1 year S/R; \$100.00 Special Assessment Fee

Count Five: NMT 5 years imprisonment, a fine of NMT \$250,000.00, or both; NMT 3 years S/R; \$100.00 Special Assessment Fee

Count Six: NMT 5 years imprisonment, a fine of NMT \$250,000.00 or both;
NMT 3 years S/R; \$100.00 Special Assessment Fee

Counts Seven and Eight: NMT 5 years imprisonment, a fine of NMT \$250,000,
or both; NMT 3 years S/R; \$100.00 Special Assessment Fee (per count)

Count Ten: NMT 5 years imprisonment, a fine of NMT \$250,000.00 or both;
NMT 3 years S/R; \$100.00 Special Assessment Fee

AGENTS: Special Agent Michael Marshall
Drug Enforcement Administration

Special Agent Beth Boggess
Federal Bureau of Investigation

Special Agent John Pierson
Federal Bureau of Investigation

AUTHORIZED BY: Guy Till
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

_____ five days or less X over five days _____ other

THE GOVERNMENT

 X will seek detention in this case _____ will **not** seek detention in this case

The statutory presumption of detention is **not** applicable to this defendant.

OCDETF CASE: X Yes WC CO 599
 _____ No

DEFENDANT 2: OSCAR S. GARCIA

YEAR OF BIRTH: 1978

ADDRESS:

COMPLAINT FILED? _____ YES _____ X _____ NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: _____
IF NO, PROCEED TO "OFFENSE" SECTION

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? ___ YES ___ NO

IF NO, A NEW WARRANT IS REQUIRED

OFFENSE:

Counts One, Two and Three: Possession with intent to distribute and knowingly distribute a controlled substance, to wit: a quantity of a mixture and substance containing a detectable amount of Cocaine, and aiding and abetting the same – 21 U.S.C. §841(a)(1) and (b)(1)(C) and 18 U.S. C. §2

Count Four: Use of Communications Facility to Facilitate Drug Trafficking Felony and aiding and abetting the same - 21 U.S.C. § 843(b) and 18 U.S.C. §2

Count Five: Intentionally Gaining Unauthorized Access to a Computer, and aiding and abetting the same - 18 U.S.C. § 1030(a)(2)(B) and (C) and 18 U.S.C. §2

Count Nine: Conspiracy to Possess with Intent to Distribute Cocaine and aiding and abetting the same - 21 U.S.C. §§ 846, 841(a)(1) and (b)(1)(B)(ii)(II) and 18 U.S.C. § 2

Count Ten: Conspiracy to Gain Unauthorized Access to a Computer Data Base 18 U.S.C. §§ 371 and 1030(a)(2)(B) and (C), (b), and (c)(2)(B)(ii)

LOCATION OF OFFENSE (COUNTY/STATE): Arapahoe County, Colorado

PENALTY:

Counts One, Two, and Three: NMT 20 years imprisonment, a fine of up to \$1,000,000.00, or both; NLT 3 years S/R; \$100.00 Special Assessment Fee (per count)

Count Four: NMT 4 years imprisonment, a fine of NMT \$250,000.00, or both;
NMT 1 year S/R; \$100.00 Special Assessment Fee

Count Five: NMT 5 years imprisonment, a fine of NMT \$250,000.00, or both;
NMT 3 years S/R; \$100.00 Special Assessment Fee

Count Nine: NMT 40 years, NLT 5 years imprisonment, a fine of NMT
\$5,000,000.00, or both; NLT 4 years S/R; \$100.00 Special Assessment Fee

Count Ten: NMT 5 years imprisonment, a fine of NMT \$250,000.00, or both;
NMT 3 years S/R; \$100.00 Special Assessment Fee

AGENTS: Special Agent Michael Marshall
Drug Enforcement Administration

Special Agent Beth Boggess
Federal Bureau of Investigation

Special Agent John Pierson
Federal Bureau of Investigation

AUTHORIZED BY: Guy Till
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

_____ five days or less X over five days _____ other

THE GOVERNMENT

 X will seek detention in this case _____ will **not** seek detention in this case

The statutory presumption of detention is applicable to this defendant.

OCDETF CASE: X Yes WC CO 599

_____ No